

## SECTION 2

CONDUCT OF  
INTELLIGENCE ACTIVITIES2-1. General.

2-101. Purpose. Information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. The measures employed to acquire such information should be responsive to legitimate governmental needs and should be conducted in a manner that respects established concepts of privacy and civil liberties.

2-102. Principles of Interpretation. Sections 2-201 through 2-309 set forth governing principles which, in addition to other applicable laws, are intended to achieve the proper balance between protection of individual interests and acquisition of essential information. Those sections govern the conduct of specific activities which are authorized for the performance of the functions and responsibilities assigned to the agencies within the Intelligence Community. Those sections shall not be construed as affecting or restricting other lawful activities of intelligence components not otherwise addressed therein. Nothing in this Order shall affect the law enforcement responsibilities of any department or agency. Any collection activity conducted for a law enforcement purpose may be handled in accordance with relevant law enforcement procedures, as appropriate.

2-2. Use of Certain Collection Techniques.2-201. General Provisions.

(a) The activities described in sections 2-202 through 2-208 shall be undertaken only as permitted by this Order and by procedures established by the head of the agency concerned and approved by the Attorney General. These procedures shall protect constitutional rights and privacy, ensure that information is gathered by the least intrusive means possible, and limit use of such information to lawful governmental purposes. The Attorney General shall provide a statement of reasons for not approving any procedures established pursuant to this section. The National Security Council may establish procedures in situations where the agency head and the Attorney General are unable to reach agreement.

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(b) The Attorney General hereby is delegated the power to approve the use, for intelligence purposes, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such activities shall not be undertaken in the United States or against a United States person abroad without a judicial warrant, unless the Attorney General has determined that under the circumstances the activity is lawful under the Constitution and statutes of the United States.

2-202. Electronic Surveillance. The CIA may not engage in any electronic surveillance within the United States. No agency within the Intelligence Community shall engage in any electronic surveillance directed against a United States person abroad or designed to intercept a communication sent from, or intended for receipt within, the United States except as permitted by the procedures established pursuant to section 2-201. Training of personnel by agencies in the Intelligence Community in the use of electronic communications equipment, testing by such agencies of such equipment, and the use of measures to determine the existence and capability of electronic surveillance equipment being used unlawfully shall not be prohibited and shall also be governed by such procedures. Such activities shall be limited in scope and duration to those necessary to carry out the training, testing or countermeasures purpose. No information derived from communications intercepted in the course of such training, testing or use of countermeasures may be retained or used for any other purpose. Any electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act as well as this Order.

2-203. Electronic, Optical, or Mechanical Monitoring. Electronic, optical, or mechanical devices may be used to monitor any person in the United States or any United States person abroad in circumstances where a warrant would be required if undertaken for law enforcement purposes, but only in accordance with procedures established pursuant to section 2-201. Any monitoring which constitutes electronic surveillance as defined in the Foreign Intelligence Surveillance Act of 1978 shall be conducted in accordance with that Act as well as this Order.

2-204. Physical Searches. No agency within the Intelligence Community other than the FBI may conduct any unconsented physical search within the United States except as provided in this section. The counterintelligence elements of the military services may conduct such searches directed against active duty military personnel when authorized by a military commander empowered to approve physical searches for law enforcement purposes pursuant to the Manual for Courts-Martial, Rule 315 (E.O. 12198), based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers. The

CIA may conduct such searches of persons of non-U.S. persons lawfully in its possession. All such searches within the United States, as well as all such searches conducted by any agency within the Intelligence Community outside the United States and directed against U.S. persons shall be undertaken only as permitted by procedures established pursuant to section 2-201.

2-205. Mail Surveillance. No agency within the Intelligence Community shall open mail or examine envelopes in United States postal channels, except in accordance with applicable statutes and regulations. No agency within the Intelligence Community shall open mail of a United States person that is outside U.S. postal channels except as permitted by procedures established pursuant to section 2-201.

2-206. Physical Surveillance. The FBI may conduct physical surveillance (including the use of monitoring devices for which a warrant would not be required for law enforcement purposes) directed against United States persons or others in the course of a lawful investigation. Other agencies within the Intelligence Community may undertake physical surveillance (including the use of monitoring devices for which a warrant would not be required for law enforcement purposes) directed against a United States person if:

(a) The surveillance is conducted outside the United States and the person is being surveilled in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(b) That person is being surveilled for the purpose of protecting foreign intelligence or counterintelligence sources and methods from unauthorized disclosure or is the subject of a lawful counterintelligence or personnel, physical or communications security investigation; or

(c) The surveillance is conducted solely for the purpose of identifying a person who is in contact with someone described in subsection (a) or (b) of this section.

(d) Surveillance under paragraph (b) may be conducted within the United States of only a present employee, intelligence agency contractor or employee of such a contractor, or military person employed by a nonintelligence element of a military service.

2-207. Undisclosed Participation in Domestic Organizations. Employees of agencies within the Intelligence Community may join, or otherwise participate in, any organization within the United States on behalf of any agency within the Intelligence Community without disclosing their intelligence affiliation to

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with procedures established pursuant to section 2-201. Such procedures shall provide for disclosure of such affiliation in all cases unless the agency head or a designee finds that non-disclosure is essential to achieving lawful purposes, and that finding is subject to review by the Attorney General. Those procedures shall limit undisclosed participation to cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation;

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power; or

(c) The participation is strictly limited in its nature, scope and duration to that necessary for other lawful purposes relating to foreign intelligence and is a type of participation approved by the Attorney General and set forth in a public document. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members unless the Attorney General has approved the participation and determined that it will not interfere with any rights protected by the Constitution or laws of the United States.

2-208. Collection of Nonpublicly Available Information. An agency within the Intelligence Community may collect, retain in files on identifiable United States persons, or disseminate information for foreign intelligence or counterintelligence purposes concerning the activities of United States persons that is not available publicly, only if it does so with their consent or as permitted by procedures established pursuant to section 2-201. Those procedures shall limit collection, retention in files on identifiable United States persons, and dissemination to the following types of information:

(a) Information concerning corporations or other commercial organizations or activities that constitutes foreign intelligence or counterintelligence;

(b) Information arising out of a lawful counterintelligence or personnel, physical or communications security investigation;

(c) Information concerning persons, derived from any lawful investigation, which is needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure;

(d) Information needed solely to identify individuals in contact with those persons described in paragraph (c) of this

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section or in contact with someone who is the subject of a lawful foreign intelligence or counterintelligence investigation;

(e) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons;

(f) Information constituting foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with section 2-202 or gathered by lawful means in the United States;

(g) Information about a person who has acted or may be acting on behalf of a foreign power, has engaged or may be engaging in international terrorist or narcotics activities, or has endangered the safety of any person protected by the United States Secret Service or the Department of State, or may be endangering the safety of any person;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Information concerning United States persons abroad that is obtained in response to requests from the Department of State for support of its consular responsibilities relating to the welfare of those persons;

(j) Information collected, received, disseminated or stored by the FBI and necessary to fulfill its lawful investigative responsibilities;

(k) Information concerning persons or activities that pose a credible threat to any facility or employee of any agency within the Intelligence Community or any department containing such an agency; or

(l) Information concerning persons or organizations who are the targets, victims or hostages of international terrorist organizations.

In addition, those procedures shall permit an agency within the Intelligence Community to disseminate information, other than information derived from signals intelligence, to another agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its lawful responsibilities and can be retained by it.

## 2-3. Additional Principles.

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2-301. Tax Information. Agencies within the Intelligence Community may examine tax returns or tax information only as permitted by applicable law.

2-302. Human Experimentation. No agency within the Intelligence Community shall sponsor, contract for, or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

2-303. Contracting. No agency within the Intelligence Community shall enter into a contract or arrangement for the provision of goods or services with private companies or institutions in the United States unless the agency sponsorship is known to the appropriate officials of the company or institution. In the case of any company or institution other than an academic institution, intelligence agency sponsorship may be concealed where it is determined, pursuant to procedures approved by the agency head, that such concealment is necessary for authorized intelligence purposes.

2-304. Restrictions on Personnel Assigned to Other Agencies. An employee detailed to another agency within the federal government shall be responsible to the host agency and shall not report to the parent agency on the affairs of the host agency unless so directed by the host agency. The head of the host agency, and any successor, shall be informed of the employee's relationship with the parent agency.

2-305. Prohibition on Assassination. No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2-306. Special Activities. No component of the United States Government except an agency within the Intelligence Community may conduct any special activity. No such agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report from the President to the Congress under the War Powers Resolution (87 Stat. 855)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective.

2-307. Restrictions on Indirect Participation in Prohibited Activities. No agency of the Intelligence Community shall carry out, indirectly or by proxy, any activity forbidden by this Order or by applicable law.

2-308. Restrictions on Assistance to Law Enforcement Authorities. Agencies within the Intelligence Community other

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than the FBI shall not, except as authorized by law or  
section 2-309:

(a) Provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration (or its successor agencies) or to state or local police organizations of the United States; or

(b) Participate in or fund any law enforcement activity within the United States.

2-309. Permissible Assistance to Law Enforcement Authorities. The restrictions in section 2-308 shall not preclude:

(a) Cooperation with appropriate law enforcement agencies for the purpose of protecting the personnel, information and facilities of any agency within the Intelligence Community;

(b) Participation in law enforcement activities in accordance with law and this Order, to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities; or

(c) Provision of specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency.

2-310. Permissible Dissemination and Storage of Information. Nothing in sections 2-201 through 2-309 of this Order shall prohibit:

(a) Dissemination to appropriate law enforcement agencies of information which may indicate involvement in activities that may violate federal, state, local or foreign laws;

(b) Storage of information required by law to be retained;

(c) Dissemination of information covered by section 2-208 to agencies within the Intelligence Community or entities of cooperating foreign governments; or

(d) Lawful storage or dissemination of information for administrative purposes.